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61

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/509,603	04/06/2000	NICOLA JOHN POLICICCHIO	6873	1426

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EXAMINER

WINTER, GENTLE E

ART UNIT	PAPER NUMBER
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1746

DATE MAILED: 01/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/509,603

Applicant(s)

POLICICCHIO ET AL.

Examiner

Gentle E. Winter

Art Unit

1746

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 December 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-36,49 and 51 is/are pending in the application.
- 4a) Of the above claim(s) 11-30 and 32 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 31,33-36,49 and 51 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendments & Arguments

1. Applicant argued that a patentable invention may lie in the discovery of the source of a problem even though the remedy may be obvious once the source of the problem is identified. Applicants' argument is that the prior art of record failed to recognize that superabsorbent overload is a problem, and that this problem was identified by applicants' and solved by adding a lower concentration of surfactant. Applicants' point is well taken that once the problem is recognized the solution is obvious. The examiner will acknowledge that the discovery of the effect might well be novel. However, since the primary reference relied on in rejecting claim 31 discloses a surfactant range that overlaps the claimed range with 0.04%-1% of surfactant, as compared to the claimed 0.05% to no more than 0.4%, the rejection stands. The claimed range was within the grasp of the public prior to applicant's invention. It is of no consequence that the claimed invention recites a feature that was inherently present. It is also noted that the claim does not recite the argued elements regarding overloading, but rather relies on inherency, which is what the examiner would rely on, if the claim were to make that what is inherent explicit.

2. As far as expectation of success, since applicant argues that identification of the problem is the basis for non-obviousness it is unclear how the prior art of record would expect the same results that applicant appears to get. Naturally, a different motivation for making the combination is always acceptable and often preferable. Applicant at page seven appears to parse the various references that comprise the 35 U.S.C. § 103 rejection and argue the references individually. The references must be considered together, this examiner acknowledges that the

Art Unit: 1746

references individually do not teach each and every limitation. The same is not required by 35 U.S.C. §103.

3. As far as the suggestion that the examiner engaged in impermissible hindsight, and a "mosaic reconstruction" by "picking and choosing" isolated elements. Since the references themselves provide the motivation for making the combination, and because the motivation is apparently not the same as applicants' the argument is not persuasive at this time. It is further noted that applicant is correct in stating that the examiner used applicants' claims as a basis for conducting the search. This is permissible hindsight. Thereafter the examiner looked only to the references themselves for making the claimed combination. The prior art of record is relied on for motivation, not applicant's disclosure. The claims have been amended to add the limitation that the composition includes the addition of a 0.0001% to about 0.2%, by weight, of a "hydrophilic shear thinning polymer". The prior art of record calls the same thing "polysaccharide hydrocolloid" and the same is disclosed as a means for decreasing foaming properties of aqueous hard surface cleaning compositions that also include a surface active agent (surfactant). See IUPAC Compendium of Chemical Terminology 2nd Edition 1997 if "surface active agent" is argued to be materially different than "surfactant".

Claim Rejections - 35 USC § 103—Maintained

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

Art Unit: 1746

having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 31, 33-36, 49 and 51, are rejected under 35 U.S.C. 103(a) as being unpatentable over EPO 0 503 219 A1 ('219) and United States Patent No. 5,538,664 to Michael and United States Patent No. 5,638,569 to Newell (Newell) and English patent 1,357,323.

3. With specific respect to claim 31, 33, 49, and 51 are drawn to a kit comprising an element, a pad containing superabsorbent material having a capacity for water of at least 15g/g when measured under a confining pressure of 0.3 PSI, and a detergent composition containing no more than about 0.4% by weight of detergent surfactant, less than 5% by weight of a solvent, and an alkanolamine in an amount sufficient to provide a pH of more than about 9, said alkaline material comprising a volatile alkanolamine. Claim 49 discloses that the volatile alkanolamine is 2-amino 2-methylpropanol. As to the first limitation drawn to the presence of a superabsorbent capable of absorbing at least 15 g/g Newell discloses a mop with a superabsorbent head see e.g. column 10 line 62 *et seq.* Superabsorbents generally have a retention range from order 10 g/g to order 100 g/g or more for demineralized water. For instance, acrylamide potassium acrylate copolymer has a 60g/g capacity, marketed under the name AQUASORB®.

4. As to the limitation regarding the detergent composition containing about 0.0001% to about 0.2% by weight of a "hydrophilic shear thinning polymer" and 0.05% to no more than 0.4% by weight of detergent surfactant, less than about 5% by weight of a solvent, and an alkanolamine in an amount sufficient to provide a pH of more than about 9. The '219 reference discloses a cleaning composition for the cleaning of hard surfaces, see e.g. title, and a detergent

Art Unit: 1746

with a surfactant with 0.04%-1% of surfactant, from 0.001% to 1% of an alkanolamine. See page 4 line 4. More specifically, as disclosed in claim 51, 2-aminomethyl propanol, is taught as a specific alkanolamine at *inter alia* page 2, line 46. Because the composition is the seemingly identical, the pH would apparently be identical. However, to be rigorous, Michael discloses a composition having a pH of from about 6 to about 12.5, preferably from about 7 to about 11.5, more preferably from about 10 to about 11.5, for cleaning. Michael further discloses that the compositions can also contain, optionally, small amounts of additional surfactants and/or buffering system, "especially the alkanolamines described hereinafter" to maintain the desired pH. See e.g. column 1, line 25 *et seq.* of Michael. While the claimed pH is believed to be inherent in '219, Michael is provided for an explicit teaching. To the extent that the pH was not adjusted in '219, the artisan would have been motivated to adjust the pH to facilitate improved cleaning. Additionally, the pH may be kept fairly high to control compositional stability and preserve product efficacy.

5. As to the added limitation that the composition includes the addition of a 0.0001% to about 0.2%, by weight, of a "hydrophilic shear thinning polymer". The '323 reference discloses the addition of the disclosed "hydrophilic shear thinning polymer" but refers to it as a "polysaccharide hydrocolloid". The '323 reference explicitly provides the motivation for adding the compound to the composition. Namely, as a means for decreasing foaming properties of aqueous hard surface cleaning compositions that also include a surface active agent (surfactant).

6. Each and every limitation of claims 31, 33, and 49 is disclosed in '219, '323, and Michael the as set forth above, except that combination fails to explicitly disclose use with the superabsorbent mop. The compositions are disclosed for use with cleaning hard surfaces but the specific type of mop is not disclosed. Newell provides the missing element and explicitly provides the motivation for making the instant combination. Specifically, Newell provides "For example, in a single-use mop application, the strand elements may be impregnated or otherwise have associated therewith a super-absorbent material. Such super-absorbents, or hydrogels, may be of any suitable type, and are readily commercially available from a variety of sources", Newell goes on to enumerate *inter alia* "Aquasorb" sorbent manufactured by Aqualon, Wilmington, Del. See e.g. column 10 line 62 *et seq.* Newell also provides the motivation for making the combination, namely: "In order to enhance fluid take-up and retention capacity in wet mopping applications". See e.g. column 10 line 62 *et seq.*

7. As to claims 34, 35, and 36 disclosing that the composition used in the process includes a suds suppressor and is used on a ceramic floor or other specified floor. With respect to the limitation that the floor be ceramic, it has been held that to be entitled to weight in method claims, the recited structure limitations therein must affect the method in a manipulative sense, and not to amount to the mere claiming of a use of a particular structure. *Ex parte Pfeiffer*, 1962 C.D. 408 (1961). As to the suds suppressor, this is a common additive and was well within the grasp of the artisan at the time of invention. Michael discloses the same in claim 7. One motivation for including a suds control system is to optimize cleaning performance, and minimize or eliminate required rinsing.

Conclusion

1. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gentle E. Winter whose telephone number is (703) 305-3403. The examiner can normally be reached on Monday-Friday 7:00-3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Randy P. Gulakowski can be reached on (703) 308-4333. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications. The direct fax number for this examiner is (703) 746-7746.

Art Unit: 1746

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

Gentle E. Winter
Examiner
Art Unit 1746

January 8, 2004